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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,913	08/24/2001	Gunter Knepp	HM-244DIV	3771
7590	10/09/2003		EXAMINER	
Friedrich Kueffner 317 Madison Avenue Suite 910 New York, NY 10017			TRINH, MINH N	
			ART UNIT	PAPER NUMBER
			3729	

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

NY

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/938,913	KNEPPE ET AL.	
	Examiner	Art Unit	
	Minh Trinh	3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 10 June 2002.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 24-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. 09/177,300.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<ol style="list-style-type: none"> <li>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</li> </ol>	<ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____.</li> </ol>
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### DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 24-28 are under 35 U.S.C. 103(a) as obvious over US Elsner et al (US 5,363,728) in view of Meares (US 2,801,439).

Elsner et al disclose a cutting apparatus comprising: a knife drum 12 and counter drum 14 located opposite the knife drum, at least one knife having a knife cutting edge mounted on the knife drum, at least one drive unit (col. 2, lines 32-33, col. 6, lines 31) for accelerating the drums to a speed corresponding to a feeding speed of rolled strip to be cut and at least one adjusting device (col. 2, lines 61-68) for adjusting the drums relative to each other for carrying out a cut, the knife drums having a cutting circle toward the counter drum (see Fig. 1, col. 2, lines 40-44). Elsner et al however do not teach the knife being mounted so as to resiliently supported with a predetermined restoring force against at least one spring element, wherein the knife is mounted as so to be resiliently supported in a radial guide means against a gas pressure spring.

Meares teaches the knife is operatively associated with a spring for supporting and predetermine restoring force against the spring means (figures 4-6, discussed at col. 2) wherein the knife is mounted as so to be resiliently supported in a radial guide means against pressure applied. Therefore, It would have been obvious to one ordinary skill in the art, at the time of the invention was made to employ the Meares's teaching of the

knife is operatively association with a resilient support for supporting and restoring force against the spring means onto the invention of Elner et al in order to form a cutting structure having resilient supporting therefrom, reliability of operation would result. Further, note that a pressure applied and released against the blade is read as "a radial guide means gas spring" as recited in claim 24 of the instant invention.

Limitations of claims 25-27 are also met as the above discussion.

As applied to claim 28, Elsner et al teach a plurality of adjusting devices 42 (see Fig. 1). Further, note that Elsner's reference 42 represented another adjusting device.

3. Claims 30-33 are under 35 U.S.C. 103(a) as obvious over Elsner et al in view of Meares.

Elsner et al or Meares as modified and applied above do not teach the knife is mounted against a hydraulic column interacting a pressure reservoir as define in claim 30. However, it is well known to the art that to use the hydraulic means including column and reservoir, and other associated elements over the conventional mechanical means of spring. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to use the hydraulic cylindrical actuator with reservoir onto the modified structure of Elsner et al or Meares in order to obtain a hydraulic supporting means including column and reservoir associated therewith.

Limitations of claim 31-33 are also met as the discussion above.

4. Claims 29 and 34 are under 35 U.S.C. 103(a) as obvious over Elsner et al or Meares as relied upon above and further in view of Scheffer et al (US 4962,683).

Elsner et al or Meares as modified and applied above do not teach the recited means for synchronizing as recited in claim 29. Scheffer et al teach this concept (see col. 4, lines 40-48). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to employ the Scheffer's teaching of synchronizing onto the modified invention of Elsner et al or Meares in order to facilitate the operation of the knife including the gap or the distant between the drums.

Limitation of claim 34 is also met as the discussion above.

#### ***Prior Art References***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art references are cited for their teaching of cylindrical cutting devices.

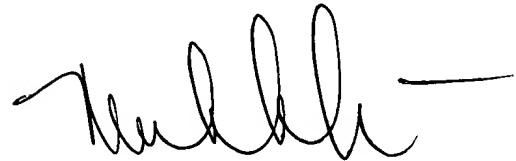
#### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (703) 305-2887. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

mt  
August 27, 2003

  
9/3/03